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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,260	09/30/2002	Bret Edward Cahill		4199

7590 12/21/2004  
Bret Cahill  
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1303 E University Blvd  
Tucson, AZ 85719-0521

EXAMINER

GARTENBERG, EHUD

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/090,260

Applicant(s)

CAHILL, BRET EDWARD

Examiner

Ehud Gartenberg

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-41 is/are pending in the application.
- 4a) Of the above claim(s) 32,34-37,39 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31,33,38 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: <u>Fig. 4 annotated</u> .                            |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. The election of the species of Fig. 4 without traverse has been noted. Claims 31-41 are in the case. Claims 31, 33, 38 and 41 are examined. Claims 32, 34-37, 39, 40 are withdrawn from consideration as being drawn to a non-elected species. Should Applicant decide to pursue continuation of the prosecution of this case, he is required to: 1) submit a single listing of ALL the standing claims with appropriate status identifiers; 2) TO REFRAIN from mailing back to the USPTO Office Actions. All the Office Actions are on file.

### ***Specification***

2. The disclosure is objected because the abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.
3. The following text in the newly filed specification was denied entry because it introduces new matter: a) on p. 5, l. 5, "ten to 15 degrees"; b) on p. 6, the last sentence of the specification on lines 8-9. Should Applicant decide to pursue continuation of the prosecution of the case, he is required file a new substitute specification deleting said new matter.
4. The specification is objected because in the listing of the claims, after claim 41, the statement "Claims 42-48 are canceled" is missing. Correction is required.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 31, 33, 38 and 41 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. Reference is made to the Examiner-marked Fig. 4, attached to this Office Action. Bearings B1 and B2 are stationary on pole P1P2 consisting of portions P1 and P2. Turbine 108 is rigidly connected through arm A to power shaft 118 that is rigidly attached to P2. Therefore, turbine 108 and its power shaft 118 cannot rotate around the axis/centerline CL (the rotation radius being the distance between CL and shaft 118) because bearing B2 and pole P1P2 won't allow them to do so.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 31, 33, 38 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, as explained in the rejection under 35USC 101 above. In particular the critical extraction of power through power shaft 118 is not enabled.

9. As explained in the rejections above, the invention as disclosed is not operational. However, to the extent that the specification could be understood, a search has been carried out, and the following rejection is made.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 31, 33, 38, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamis 6393831 that teaches the invention as claimed: a gas turbine comprising a rotating pressure vessel 12, an axial compressor 18, a combustor 54 with obvious means to supply fuel, mix and burn said fuel with air, nozzles stages (un-numbered) in-between consecutive impulse-turbine stages 14 that are axially positioned relative to said nozzles. Note that the nozzle vanes and the turbine blades look identical in Fig. 1, in spite of the fact that the nozzles are stationary and the blades are rotary. However, Chamis does not teach a centrifugal compressor. Official Notice is taken that at the time of the claimed invention centrifugal compressors and axial compressors were known to be art-equivalent, and that replacing the one with the other would have been obvious to one of ordinary skill in the art at the time of the claimed invention.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3746

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

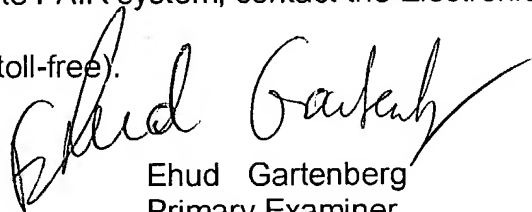
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ehud Gartenberg whose telephone number is 571 272 4828. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571 272 4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ehud Gartenberg  
Primary Examiner  
Art Unit 3746

12172004